IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY**

**and**
**THE HON'BLE Mr. JUSTICE C.V.RAMULU**

**WRIT APPEAL No.118 of 2005**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 31/12/2004 in W.P.No.18529 of 2004 on the file of the High Court)

Between:

M/s Manjira Agricultural Company, a regd firm

Vide Regn No. 10/96, rep. by its Managing Partner

G. Satyanarayana S/o Ramulu, age 55 years, R/o 38, MIG Railway Vihar, Serilingampally Mandal, Ranga Reddy District.

**..... APPELLANT**

AND

1 The Joint Collector, Medak District, Sangareddy.
2 The Revenue Divisional Officer, Sangareddy Revenue Division, Patancheru, Medak District.
3 Mandal Revenue Officer, Patancheruvu Mandal, Medak District.
4 Bioni Sathaiah, S/o Venkaiah,
5 Bioni Peddulu, S/o Venkaiah
6 Bioni Mallesh, S/o Venkaiah,
(R-4 to R-6 are all R/o Narregudem, H/o Ameenpur, Patancheru Mandal,

Medak District)

**.....RESPONDENTS**

**Counsel for the Appellant: Mr. S.NIRANJAN REDDY**

**Counsel for Respondents 1 to 3: GP FOR REVENUE**

**Counsel for Respondents 4 to 6: Mr. G. SHIVA KUMAR GOUD**

**The Court at the admission stage made the following :**

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**JUDGMENT :** (per **C.V. RAMULU,J**)

This Writ Appeal is directed against an order passed by a learned single Judge of this Court dated 31-12-2004, dismissing W.P.No.18529 of 2004, which was filed seeking to quash the Proceedings of the 1st respondent in File No.F3/5008/2004-F3/24/ROR/2004, dated 4-10-2004 as being arbitrary, illegal and contrary to the provisions of the Andhra Pradesh Record of Rights in Land and Pattadar Passbooks Act,1971.

The writ petitioner – M/s. Manjira Agricultural Company - is the appellant herein. It is its case that one Veera Reddy purchased Ac.14.08 gts. of land in Sy.No.970 of Beeramguda, Hamlet of Ameenpur village, Patancheru Mandal, Medak District under a registered sale deed dated 13-01-1958 from the father of respondents 4 to 6 and he was in possession of the land from the date of sale. The name of Veerareddy's brother's son Madhusudhan Reddy has been recorded in the revenue records till the partition took place in the year 1982 in which property was allotted to the share of two brothers of said Veera Reddy i.e. P.Srinivas Reddy and P.Ram Reddy. On such partition, their names were mutated in the revenue records from 1982 onwards. In turn, the said Srinivas Reddy and Ram Reddy executed General Power of Attorney dated 09-07-1990 in favour of one V.Narayana Rao authorizing him to sell the said land. Appellant-writ petitioner purchased the said land from the GPA holder under a registered sale deed vide document No.1272/97 dated 04-03-1997 and since then the appellant is in possession of the property. Further, the 3rd respondent by an order dated 22-06-1998 mutated the name of the petitioner over the suit land after due enquiry and accordingly issued pattadar pass books and title deeds duly attested by the 2nd respondent.

While so, when the respondents 4 to 6 who are legal representatives of the original Pattadar—Venkaiah, tried to interfere with the possession of the appellant, it filed O.S.No.209 of 1999 before the Principal Junior Civil Judge, Sangareddy for perpetual injunction restraining them from interfering with the possession over the land in Sy.No.970. Respondents 4 to 6 filed an application for causing an inspection. The Mandal Revenue Inspector after inspecting the land passed an order deleting the name of the appellant-writ petitioner and ordered for mutation of the names of respondents 4 to 6. Challenging the same, the appellant filed an appeal before the Revenue Divisional Officer under Section 5(5) of the A.P. Record of Rights in Land and Pattadar pass books Act, 1971 (for short 'the ROR Act'), who allowed the same and ordered for mutation of appellant's name in the revenue records. Aggrieved by the same, respondents 4 to 6 filed a revision under Section 9 of the ROR Act before the Joint Collector. The Joint Collector allowed the revision on 4-10-2004 and set aside the order passed by the Revenue Divisional Officer on 31-8-2004. Challenging the same, W.P.No.18529 of 2004 was filed.

Learned single Judge, after elaborately considering the matter, dismissed the writ petition holding that, in the absence of procedure being followed by the M.R.O. in mutating the name of the appellant-writ petitioner in the revenue records, if the order passed by the Joint Collector is set aside, it will amount to restoring an illegal order. Therefore, it is not a fit case where this Court can exercise Certiorari jurisdiction against the order passed by the Joint Collector. If the appellant-writ petitioner claims any right over the suit schedule property, it is open for it to file a comprehensive suit for declaration of title and can seek amendment of the records as per the declaration so obtained. Basing upon such declaration, if any, it is always open for the writ petitioner to approach the revenue officials for mutation as contemplated under Section 8(2) of the ROR Act. Aggrieved by the said order, the present appeal is filed.

Sri S. Niranjan Reddy, learned counsel for the appellant-writ petitioner submitted that the father of respondents 4 to 6 late B. Venkaiah executed registered sale deed in favour of one P. Veera Reddy in respect of the land in Sy.No.970 ad measuring Ac.14.08 gts situated at Beeramguda, Hamlet of Ameenpur village, Patancheru Mandal of Medak district. However, the entries in the revenue records were made in the year 1961-62 in the name of P. Madhusudhan reddy i.e. brother's son of P.Veera Reddy. On 14-3-1982, partition took place between Veera Reddy and his brothers, wherein the subject land was allotted to the shares of P.Srinivas Reddy and P. Ram

Reddy. On 9-7-1970 the said Srinivas reddy and Ram Reddy executed General Power of Attorney in favour of one V.Narayana Rao. The said Narayana Rao executed a registered sale deed bearing document No.1272 of 1997 on 4-3-1997 in favour of M/s. Manjira Agricultural Company – appellant herein. Pursuant to the said sale deed, the mutation in revenue records was effected in favour of the appellant on 22-6-1998. The suit O.S.No.209 of 1999 on the file of the learned Principal Junior Civil Judge, Sangareddy filed by the appellant seeking injunction against respondents 4 to 6 and others was decreed on the basis of the entries made in the pahanies in pursuance of the panchanama conducted on 9-7-1999. Against the said decree and judgment an appeal was preferred by the appellant-writ petitioner and the same was also dismissed. But the second appeal filed by the appellant is pending before this Court and during the pendency of the same, status quo orders have been passed.

It is also stated that on 9-7-1999, a panchanama was conducted by the Mandal Revenue Inspector, Patancheru Mandal with regard to the possession without putting the appellant on notice. On the basis of the panchanama conducted by the Mandal Revenue Officer for the year 1999-2000 in the 'possession' column of Pahani, the entries were changed. Aggrieved by the same, the appellant filed an appeal under Section 5(5) of the ROR Act before the Revenue Divisional Officer, Sangareddy vide Appeal No.A3/1416/2003, which was allowed on 31-8-2004 setting aside the amendment made by the Mandal Revenue Officer in the 'possession' column of Pahani for the year 1999-2000. Respondents 4 to 6 carried the matter in revision before the Joint Collector, Medak in File No.F3/508/2004/24/ROR/2004. The revision was allowed on 4-10-2004 setting aside the order of the Revenue Divisional Officer dated 31-8-2004. Subsequently, the pahanies for the years 2000-01 to 2003-04 were amended in pursuance of the said order of the Joint Collector.

Learned counsel for respondents 4 to 6 contended that the Mandal Revenue Inspector, Patancheru inspected the land and conducted a panchanama. During the panchanama, the physical possession of the land was found to be with respondents 4 to 6. Therefore, rightly, the names of respondents 4 to 6 were entered in the column of 'possession' of Pahani, which was, of course, reversed by the Revenue Divisional Officer and further the order of the Revenue Divisional Officer was also reversed by the Joint Collector.

During the course of arguments, this Court entertained a doubt as to the very initiation of the proceedings by respondents 4 to 6 and the appeal being filed by the appellant under Section 5(5) of the ROR Act before the Revenue Divisional Officer and the revision by respondents 4 to 6 before the Joint Collector under Section 9 of the ROR Act. The whole case suggests, as if the proceedings were initiated under the ROR Act. In fact, the counsel appearing for both the parties, after elaborate debate, conceded that the maintenance of revenue records and the pattadar passbook issued under the ROR Act are governed by different statutes. The provisions of the ROR Act are invoked for altogether a different purpose. At the outset, it looks as if there is no difference between the procedure adopted for the purpose of change of entries in the record of rights and the revenue records. Sri Addepalli Suryanarayana, learned Government Pleader also fairly conceded that the change of entries in the revenue records is governed by one procedure and the change of entries in the pattadar pass books is governed by a different procedure i.e. under the provisions of ROR Act.

**Purpose of Village Accounts – ROR Act**

In this backdrop, we have looked into the provisions of the ROR Act. Originally, the ROR Act was enacted for the purpose of preparation and maintenance of records of rights in Telangana area of the State. There is no corresponding enactment providing for such statutory record of rights applicable to the Andhra area of the state. The matter has been considered by the Revenue Consultative Committee and in the light of the recommendations of the Committee, the Government has decided that a scheme for preparation and maintenance of record of rights should be implemented in the Andhra area of the State also. It was accordingly proposed to enact fresh legislation applicable throughout the State for the preparation and maintenance of record of rights. That is how the Andhra Pradesh Records of Rights in Land and Pattadar Passbooks Act,1971 came into being. Now, provision is made to deem the record of rights duly prepared and maintained for the villages under the A.P. (Telangana Area) Record of Rights in Land Regulation, 1358 Fasli as the record of rights for that village. It safeguards the interests of the agriculturists and to overcome the difficulties experienced by the credit lending agencies. The Government has further amended the ROR Act in 1994 to achieve the following objects :

i. to issue title deed to the pattadar owners to enable them to use the same for creation of equitable mortgage on their lands;

ii. to provide an appeal to the Revenue Divisional Officer against the orders of the Mandal Revenue Officer under sub-section (4) of Section 5-A of the Act;

iii. to protect the credit agencies by specifying that any charge not entered in the pass book will not have priority;

iv. to provide that the title deeds issued under sub-section (1) of Section 6-A of the said Act and duly certified by the Mandal Revenue Officer or by any authority as prescribed shall be the title deed in respect of the owner pattadar and it shall be the record of right and interest in the land of the person to whom the pass book is issued;

v. to make pattadar responsible for getting necessary entries made in respect of transactions regarding the title deed and pass book by the Registering Officer;

vi. to recover the loans in default as arrears of land revenue by the Revenue Department; and

vii. to confer revision powers on the District Collector against the orders passed by the concerned authority under Sections 3,5,5-A or 5-B of the said Act.

Under Section 2(9) of the ROR Act, 'record of rights' means records prepared and maintained under the provisions, or for the purposes of the ROR Act.

Under Rule 2(f) of the Hyderabad Record of Rights Rules,1956 {Andhra Pradesh (Telangana Area) Record of Rights Rules,1956} 'regulation' means the A.P. (Telangana Area) Record of Rights in Land Regulation, 1358 Fasli.

As per Rule 3 of the said Rules, the Record of Rights register shall be maintained in Form 1 for each village. The Note appended to Rule 3 reads as under:

> "**Note:-** The Pahani Patrika now in use contains besides columns 1 to 19 of Form No.1 several other columns pertaining to Agricultural statistics. Columns 1 to 19 of the Pahani Patrika, which correspond to Form (1) 'I' shall be deemed to be the Record of Rights."

Pahani, Sethwar and other registers maintained by the Revenue Department form

part of village accounts. In Telangana area, the village accounts are governed by the provisions of A.P. (Telangana Area) Land Revenue Act,1317 Fasli and rules made thereunder. In exercise of the powers under Section 172 of the said Act, various rules were framed from time to time. The whole purpose of maintaining village accounts was for dealing with occupant's rights for improvement of the lands, transfer of Registry of holdings, including alienation, succession cases by inheritance and these Rules are mainly meant for levying assessment on lands cultivated under various sources of irrigation as per the settlement register fixed in the Sethwar of the villages and also for grant of remissions in respect of crops damaged due to natural calamities or in cases of destruction of crops beyond the control of cultivators. These rules were the basis for finalization of annual land revenue demand and also for the change of entry of holdings of concerned land holders, during annual Jamabandi of each fasli year.

Pahani is also one of the registers maintained for the purpose of village accounts. During the Nizam's domain various Firmans (Royal Commands), Hukumnamas (orders) and Gasthis (circulars) were issued from time to time for maintenance of village accounts. Even after merger of the Hyderabad Nizam State with the Union of India, several gashtis, which were in the shape of gazettes, were issued from time to time prescribing various registers for the purpose of maintaining village accounts. Pahani is one such register which forms part of maintenance of village accounts. As such, it is one of the revenue records. Pahani patrika is nothing but annual village account register prepared by Patwari containing survey numbers, extents, with cultivation particulars, name of pattadar and names of persons who are in actual occupation of land for cultivation and also columns meant for inspection of Revenue Officers.

The scope of village accounts is only to record the existing facts on the basis of spot inspection at the beginning of fasli and to record facts occurred during the course of the year after the year is closed for Jamabandi. Jamabandi is nothing but levy of land revenue as fixed in settlement, survey numberwise and villagewise of a taluk. The finalization of annual accounts for each fasli will be done by Nazime-Jamabandi and land revenue amounts determined will be collected before the commencement of the next fasli year, i.e. by the end of June of a year.

A person whose name finds place in the revenue records will have a right to assert that he is a owner, tenant, occupier etc. But, that itself does not confer any right

whatsoever as to title to the land. Whereas, the pattadar pass books issued under the ROR Act are nothing but title deeds by themselves for all purposes. Entries made in the revenue records (village accounts) themselves do not constitute any title. Thus, entries in the revenue records do not prevail over the entries in the pattadar pass books issued under the ROR Act.

Further, the scope of annual accounts is only to record the existing facts for the purpose of spot inspection at the beginning of fasli and to record facts occurring during the course of the year, after the year is closed. It is not within the scope of the annual accounts to investigate and decide the correctness or otherwise of the entries made in the earlier revenue records as on the date they were made. May be, on the basis of entries made in revenue records, persons whose names find place therein can assert the title to the land vests in them.

From the above, it is clear that the Pahani Patrika does not constitute the record of rights. The pattadar passbook is issued crystalizing the rights of the individual, whereas Pahani Patrika is the general village account register. It reflects the ground position as to actual cultivator of the land and the person, who occupied the lands has violated any rule and if so, the details of the same. There are so many forms and registers maintained by the Revenue Department as revenue records and/or Village Accounts.

Thus, the above discussion would suggest that the Proceedings initiated under the ROR Act and the procedure required to be invoked for the purpose of making any entry in the revenue records under the A.P. (Telangana Area) Land Revenue Act,1317 fasli and the Rules made thereunder is altogether different. Admittedly, in this case, the whole premise of proceeding with the case is as if the matter arose as to the dispute regarding the entries in the record of rights; which, in fact, was not so.

The panchanama purported to have been conducted by the Mandal Revenue Inspector on 9-7-1999, admittedly, was without any notice to any person and is in violation of principles of natural justice. The panchanama also does not indicate as to what was the purpose for which the inspection was carried out and why a panchanama was conducted. The panchama was conducted in the presence of some villagers and the Village Administrative Officer. Thereafter, the entires in the pahanies for the years 2000-01 to 2004-05 were corrected. Therefore, the very entertaining of appeal by the Revenue Divisional Officer under Section 5(5) of the

ROR Act and further revision by the Joint Collector under Section 9 of the ROR Act are the result of wrong assumption of jurisdiction by the authorities. As such, the order passed by all the authorities are *non est* in the eye of law. In the result, the order passed in the writ petition is liable to be set aside.

Accordingly, the proceedings althrough including the panchanama dated 9-7-1999, prepared by the Mandal Revenue Inspector, Patancheru the orders passed by the Revenue Divisional Officer and the Joint Collector are set aside. Consequently, the entries made in the pahanies for 2001-02 to 2004-05 are also declared as illegal. However, this Judgment of ours will not preclude the unofficial respondents from working out their remedies as available under the law. We may make it clear that we have not expressed any opinion as to the right of possession and title of the parties herein. Any observations made in this judgment will not come in the way of any authority in considering the case of parties to this *lis* as per the merits of the case before it.

The Writ Appeal is allowed to the extent indicated above. No order as to costs.

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**B.Sudershan Reddy, J**

26-4-2005

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***C.V.Ramulu, J***

Prk

Rule nisi has been made absolute as above.

Witness the Honourable Sri Bilal Nazki, the Acting Chief Justice, on this Tuesday, the Twenty Sixth day of April, Two thousand and Five.

ASSISTANT REGISTRAR

/TRUE COPY/

SECTION OFFICER.

To

1 The Joint Collector, Medak District, Sangareddy.
2 The Revenue Divisional Officer, Sangareddy Revenue Division, Patancheru, Medak District.
3 Mandal Revenue Officer, Patancheruvu Mandal, Medak District.
4 2 CCs for Govt.Pleader for Revenue, High Court Buildings, Hyderabad (OUT)

5 2 CD copies.

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